

REMARKS

With the foregoing amendment claims 1-48 are pending in the application. Claims 1, 12, 16, 18, 27, 29 and 36 are independent. No Previously Presented matter has been added by the amendments. Applicants respectfully request reconsideration of the Rejections/Objections, which are discussed below.

Allowable Subject Matter

Applicants thank the Examiner for indicating that claim 31 would be allowable if re-written in independent form.

First Rejection of Claims under 35 U.S.C. §103

Claims 1-4, 6-10, 16-21, 23-26, 29-30, 32-35, 36-39, 41-45 and 47-48 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke (US 6,587,127) in view of Ward (US 6,526,411) and Cluts (US 5,616,876) (collectively referred to as the “Art”). Applicants respectfully disagree.

Independent Claim 1

With respect to independent claim 1, claim 1 is patentable over the Art because the Art, considered alone or in combination, does not teach or suggest all of the elements of claim 1. For example, at the least, the Art does not disclose:

- [a] receiving a broadcast recording over a broadcast channel;
- [b] playing the received broadcast recording;
- [c] receiving an indication that the user likes the received broadcast recording while the broadcast recording is being received over the broadcast channel; and
- [d] modifying at least one of the one or more channel profiles in response to receiving the indication.

as is recited in claim 1 (emphasis added).

With respect to Leeke, the only portion of Leeke that discloses a user indicating his/her “likes” and “dislikes” of a recording appears at Col. 35, line 41 to col. 36, line 5, which portion is reproduced below for the convenience of the Examiner:

FIG. 51 is a view of an embodiment of the graphical rating tool. The graphical rating tool includes a plurality of rating options 1360. Preferably, each of the rating options 1360 has the form of a hot region associated with a rating. For example, the rating options can include five hot regions for receiving ratings from one to five.

During playback of the track, the end user varies a position of a cursor 1362 over the rating options to indicate his/her dislike or like of the track. For example, the end user may position the cursor 1362 over the hot region for a one-rating during portions of the track he/she dislikes, and may position the cursor 1362 over the hot region for a five-rating during portions of the track he/she likes. Preferably, a display graphic within the hot region is modified in response to the cursor 1362 being positioned thereon. For example, the display graphic can appear to illuminate (e.g. to light up) in response to the cursor 1362 being position on the hot region.

A plurality of ratings generated over time are recorded by the client apparatus 104 and/or the server 102. The time sequence of the plurality of ratings can be formed by repeatedly sampling the rating for either equal or unequal time intervals.

When the end user has formulated an overall rating or a score for the item as a whole, he/she points to and clicks on a particular rating option. An indication of the overall rating is recorded and displayed. Preferably, the overall rating is displayed within the icon 1352 associated with the track. The title 1350 and the icon 1352 for rated tracks are displayed in a second color which differs from a first color used to display titles and icons for unrated tracks.

Leeke at col. 35, line 41 to col. 46, line 5.

While the above portion of Leeke discloses a user indicating whether he/she likes or dislikes a song (i.e., a "track"), nowhere does Leek disclose, or even suggest, that the song is being broadcast and that the user indicates his/her like for the song while it is being received. Rather, Leeke makes clear that the songs are not broadcast. Accordingly, Applicants respectfully submit that Leeke does not disclose "receiving an indication that the user likes the received broadcast_recording while the broadcast recoding is being received over the broadcast channel," as is required by claim 1.

With respect to Ward, it is true that Ward discloses that a user may indicate "dislike for a particular content item." However, nowhere does Ward disclose, or even suggest, that

the particular content item is a “received broadcast recording,” as is expressly required by claim 1. Accordingly, because Ward does not disclose or even suggest “receiving a broadcast recording,” Ward simply does not disclose or suggest “receiving an indication that the user likes the received broadcast recording while the broadcast recording is being received over the broadcast channel.”

With respect to Cluts, Cluts discloses an “audio on demand system.” *Col. 11, line 52*. This “audio on demand system” enables a user create a playlist and add songs to the playlist. *See e.g., col. 12, lines 51-53* (“If the user selects a song, that song is loaded into a new playlist. If the user selects an album, all of the songs from that album are loaded into a new playlist.”). According to Cluts, “[w]hen a playlist is selected, the audio on demand system begins to play the first song in the playlist.” A feature of the “audio on demand system” is that the user can indicate that he/she likes the song from the playlist that is currently playing. *See e.g., col. 13, line 63 to col. 14, line 2* (describing that when the user activates the “like button 545”, the “currently playing song” is added to “a playlist called ‘my favorites’”).

Accordingly, like Ward, Cluts discloses that a user may indicate that he/she likes a particular song from playlist. Significantly, however, like Ward, nowhere does Cluts disclose, or even suggest, that the particular song is a “received broadcast recording,” as is required by claim 1. In fact, Cluts discloses the opposite. That is, Cluts discloses an on demand system that provides music to a user “on demand.” An “on demand system” is the complete opposite of a broadcast system because an “on demand” system transmits a song (or other content) through the network so that the content can be played only by the user device (e.g., set-top-box) that requested the content, whereas broadcast system transmits content through the network such that it can be played by all of the user devices connected to the network.

In short, neither Cluts nor Ward make up for the deficient teachings of Leeke. Because the Art does not disclose “receiving an indication that the user likes the received broadcast recording while the broadcast recording is being received over the broadcast channel,” the rejection of claims 1-11 should be withdrawn.

Dependent Claim 3

With respect to dependent claim 3, dependent claim 3 requires “automatically adding an artist identifier that identifies the artist that recorded the received broadcast recording to said set of artist identifiers included in the at least one profile.” The Office contends that Ward discloses this feature. The Office cites to Ward at col. 4, lines 52-58, which is reproduced below.

Additionally, it would allow users to subscribe to artists and automatically have their playlists updated with Previously Presented content, such as when an artist releases a Previously Presented song, by having playlists which contained the meta-category of a particular artist included in their playlist. That would be a valuable opportunity for both users and artists to connect.

Ward at col. 4, lines 52-58.

While the above portion of Ward discloses enabling a user to “subscribe to artists,” the above portion of Ward simply does not disclose any of the following steps: (1) receiving a broadcast recording over a broadcast channel; (2) receiving an indication that the user likes the received broadcast recording while the received broadcast recording is being played; and (3) automatically adding an artist identifier identifying the artist that recorded the broadcast recording to the user’s profile in response to receiving an indication that the user likes the recording.

Dependent Claim 7

With respect to dependent claim 7, dependent claim 7 requires “selecting one or more of the channel profiles based on the received information concerning the received broadcast recording.” The Office contends that Ward discloses this feature. The Office cites to Ward at col. 2, lines 18-25 and 46-60, which are reproduced below.

A dynamic playlist is a list of items that can be played in linear order, as is done with a traditional playlist, or in more exotic sequences after application of sorting or ordering algorithms. User profiles can be applied to the sorting process, i.e., by ranking items based on the user's meta-data, which can include usage patterns or explicit preferences, and further, by order reflected by usage of other users.

. . .
The collaborative filtering query algorithm can be arranged to include the dynamic playlist itself, which becomes especially meaningful subsequent successive playlist updates. The algorithm can also include user play pattern data including manual intervention detected during playing of contents associated with the dynamic playlist, or rating data indicative of preference or distaste for selected content items.

Ward at col. 2, lines 18-25 and 46-60.

Applicant respectfully submits that nowhere does the above cited portion of Ward disclose (or even suggest) the step of “selecting one or more of the channel profiles based on the received information concerning the received broadcast recording,” as is required by claim 7.

Independent Claim 16

Like claim 1, claim 16 requires the step of “enabling the user to indicate that the user likes or does not like the broadcast recording while the broadcast recording is being received over the broadcast channel.” Accordingly, for the reason give above with respect to claim 1, claim 16 and all of its dependents are patentable over the Art.

Independent Claim 18

Claim 18 is similar to claim 1. Thus, the above remarks for claim 1 apply to claim 18 and all of its dependent claims.

Independent Claim 29

Claim 29 is similar to claim 16. Thus, the above remarks for claim 16 apply equally to claim 29 and all of its dependent claims.

Independent Claim 36

Like claim 1, claim 36 requires, “receiving an indication that the user likes the received broadcast recording while the broadcast recording is being broadcast over the broadcast channel.” Thus, the remarks for claim 1 apply to claim 36.

Second Rejection of Claims under 35 U.S.C. §103

Claims 5, 22 and 40 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts and Hempleman (US 6,243,725) (collectively referred to as the “Art”). Applicants respectfully disagree.

Dependent Claim 5

With respect to dependent claim 5, dependent claim 5 requires “prompting the user to select at least one of the channel profiles in response to receiving the indication [that the user likes the received broadcast recording].” The Office contends that Hempleman discloses this feature. The Office cites to Hempleman at col. 6, lines 14-22, which is reproduced below:

FIG. 30 illustrates the steps in a process of saving the playlist screen, FIG. 4I. In a step 290 the playlist save screen is displayed. In a step 292, if the user has selected to save the existing playlist, the changes are written to the respective database in a step 294. If the user elected to save the Previously Presented playlist in a step 296, the changes are written to the Previously Presented playlist database in a step 298. Finally, the user can discard the changes and exit in a step 300.

Hempleman at col. 6, lines 14-22 (see Office action at page 10).

The above portion of Hempleman merely discloses a user saving a playlist. Nowhere does the above portion of Hempleman disclose “prompting the user to select at least one of the channel profiles in response to receiving the indication [that the user likes the received broadcast recording],” as is required by claim 5. Thus, Hempleman does not make up for the deficient teachings of Leeke and Ward.

Third Rejection of Claims under 35 U.S.C. §103

Claims 11 and 46 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts and Mankovich (US 2003/0097338) (collectively referred to as the

“Art”). Applicants respectfully disagree. Claim 11 depends from claim 1 and, therefore, is patentable over the Art for at least the same reasons given above with respect to claim 1. Likewise, claim 46 depends from claim 36.

Fourth Rejection of Claims under 35 U.S.C. §103

Claims 12-14 and 27-28 stand rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts and Launchcast. Applicants respectfully disagree.

Independent Claim 12

Similarly to claim 1, claim 12 requires the step of “enabling the user to indicate that the user likes or does not like the received broadcast recording while the broadcast recording is being received over the broadcast channel.” Accordingly, for the reason give above with respect to claim 1, claim 12 is patentable over the Art.

Additionally, claim 12 requires, “displaying to a user a user interface that enables the user to select the first or second personalized channel, wherein the user interface displays both (1) a name associated with the first personalized channel and (2) a name associated with the second personalized channel.” The Office contends that Launchcast discloses this feature. Applicants respectfully disagree.

While it is clear that Launchcast display a user interface that displays the name associated with a first channel (e.g., “Previously Presented Wave Station”), a second channel (e.g., “Sade Fan Station”), a third channel (e.g., “Frequency”), and a fourth channel (e.g., “ZirronSpiritQuest’s Station”), it is equally clear that these channels (or “stations”) are not “personalized channels,” as is required by claim 12. Rather, these stations are a “GENRE” station, a “FAN” station, a “THEME” station, and a “DJ” station, respectively.

It is also clear that Launchcast allows a user to create only one personalized channel. For example, Launchcast states, “What is LAUNCHcast? YOUR own music station.” Notice the use of the singular “station” rather than the plural “stations.” Launchcast also states, “[t]he music played on your LAUNCHcast station is based on YOUR music tastes.” Again, notice the user of the singular “station” rather than the plural “stations.” As another example, Launchcast states, “Share your station ...” and “Create Station here.” Yet again, Launchcast discloses a user sharing and creating a single station, not multiple stations. The

implication is clear. Launchcast simply does not disclose or suggest a user having more than one personalized channel. Thus, Launchcast does not disclose (or even suggest) the step of “displaying to a user a user interface that enables the user to select the first or second personalized channel, wherein the user interface displays both (1) a name associated with the first personalized channel and (2) a name associated with the second personalized channel,” as is required by claim 12. For this additional reason, the rejection of claim 12 should be withdrawn.

Independent Claim 27

Claim 27 is similar to claim 12. Thus, the above remarks for claim 12 apply equally to claim 27.


Fifth Rejection of Claims under 35 U.S.C. §103

Claim 15 stands rejected under 35 U.S.C. 103 as being unpatentable over Leeke, Ward, Cluts, Launchcast and Mankovich. Applicants respectfully disagree. Claim 15 depends from claim 12 and, therefore, is patentable over the Art for at least the same reasons given above with respect to claim 12.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections, and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

RESPECTFULLY SUBMITTED,			
<i>NAME AND REG. NUMBER</i>	Brian Rosenbloom, Registration No.: 41,276		
<i>SIGNATURE</i>		<i>DATE</i>	7/7/08
<i>Address</i>	Rothwell, Figg, Ernst & Manbeck Suite 800, 1425 K Street, N.W. Washington, DC 20005 202-783-6040 (phone); 202-783-6031 (fax)		

1506436